

Article - Real Property

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§3-104.

(a) (1) The Clerk of the Circuit Court may record an instrument that effects a change of ownership if the instrument is:

(i) Endorsed with the certificate of the collector of taxes of the county in which the property is assessed, required under subsection (b) of this section;

(ii) 1. Accompanied by a complete intake sheet; or

2. Endorsed by the assessment office for the county as provided in subsection (g)(8) of this section; and

(iii) Accompanied by a copy of the instrument, and any survey, for submission to the Department of Assessments and Taxation.

(2) The Supervisor of Assessments shall transfer ownership of property in the assessment records, effective as of the date of recordation, upon receipt from the Clerk of the Circuit Court of a copy of the instrument, the completed intake sheet, and any survey submitted under paragraph (1) of this subsection.

(b) (1) (i) Except as provided in subsection (c) of this section, property may not be transferred on the assessment books or records until:

1. All public taxes, assessments, and charges currently due and owed on the property have been paid to the treasurer, tax collector, or director of finance of the county in which the property is assessed; and

2. All taxes on personal property in the county due by the transferor have been paid when all land owned by the transferor in the county is being transferred.

(ii) The certificate of the collecting agent designated by law, showing that all taxes, assessments, and charges have been paid, shall be endorsed on the deed, and the endorsement shall be sufficient authority for transfer on the assessment books.

(2) (i) Except as provided in subsection (c) of this section, in Allegany, Cecil, Charles, Dorchester, Harford, Howard, Kent, Queen Anne's,

Somerset, and St. Mary's counties no property may be transferred on the assessment books or records until:

1. All public taxes, assessments, any charges due a municipal corporation, and charges due on the property have been paid as required by law; and

2. All taxes on personal property in the county due by the transferor have been paid when all land owned by the transferor in the county and municipal corporation is being transferred.

(ii) The certificate of the collecting agent and municipal corporation designated by law showing that all taxes, assessments, and charges have been paid, shall be endorsed on the deed and the endorsement shall be sufficient authority for transfer on the assessment books.

(c) (1) (i) The requirements for prepayment of personal property taxes in subsection (b) of this section do not apply to grants of land made:

1. By or on behalf of any mortgagee, lien creditor, trustee of a deed of trust, judgment creditor, trustee in bankruptcy or receiver, and any other court-appointed officer in an insolvency or liquidation proceeding; or

2. By a deed in lieu of foreclosure to any holder of a mortgage or deed of trust or to the holder's assignee or designee.

(ii) Notwithstanding any other provision of law, and except as provided in subparagraph (iii) of this paragraph, after the recordation of a deed or other instrument that effects a grant of land described in subparagraph (i) of this paragraph, the land shall be free and clear of, and unencumbered by, any lien or claim of lien for any unpaid taxes on personal property.

(iii) Subparagraph (ii) of this paragraph does not apply to:

1. Any lien for unpaid taxes on personal property that attached to the land by recording and indexing a notice as provided in § 14-804(b) of the Tax – Property Article prior to the recording of the mortgage, lien, deed of trust, or other encumbrance giving rise to the grant of land described in subparagraph (i) of this paragraph; or

2. Unpaid taxes on personal property owed by the transferee or subsequent owner of the land after a grant of land described in subparagraph (i) of this paragraph.

(iv) This paragraph does not affect the rights of the personal property tax lienholder to make a claim to any surplus proceeds from a judicial sale of land resulting in a grant of land described in subparagraph (i) of this paragraph.

(2) Subsection (b) of this section does not apply in Charles, St. Mary's, Dorchester, Harford, Howard, Kent, Prince George's, Worcester, Carroll, Montgomery, Frederick and Washington counties to any deed executed as a mere conduit or for convenience in holding and passing title, known popularly as a straw deed or, as provided in § 4–108 of this article, a deed making a direct grant in lieu of a straw deed, or to a deed which is a supplementary instrument merely confirming, correcting, or modifying a previously recorded deed, if there is no actual consideration paid or to be paid for the execution of the supplementary instrument.

(3) Subsection (b) of this section does not apply in Baltimore City and Anne Arundel, Baltimore, Carroll, Frederick, St. Mary's, or Washington counties to any deed transferring property to the county when the controller or treasurer of the county has certified that the conveyance does not impair the security for any public taxes, assessments, and charges due on the remaining property of the grantor.

(4) (i) Property may be transferred on the assessment books or records in July, August, or September if instead of paying the taxes required under subsection (b)(1) of this section on a property transfer by assumption, a lender or the attorney handling the transfer of title files with the county treasurer, tax collector, or director of finance of the county in which the property is assessed a statement that certifies that the lender maintains a real estate tax escrow account.

(ii) Upon receipt of the statement required in subparagraph (i) of this paragraph, the county treasurer, tax collector, or director of finance shall endorse on the deed an appropriate certification and the endorsement shall be sufficient authority for transfer on the assessment books.

(5) At the time of transfer of real property subject to a semiannual payment schedule for the payment of property taxes, only those semiannual payments that are due for the current taxable year under § 10–204.3 of the Tax – Property Article must be paid prior to the transfer of the property.

(d) Every deed or other instrument offered for recordation shall have the name of each person typed or printed directly above or below the signature of the person. If a typed or printed name is not provided as required in this subsection, the clerk shall make reasonable efforts to determine the correct name under which the deed or other instrument shall be indexed.

(e) (1) Any printed deed or other instrument offered for recordation shall be printed in not less than eight–point type and in black letters and be on white paper

of sufficient weight and thickness to be clearly readable. If the deed or other instrument is wholly typewritten or typewritten on a printed form, the typewriting shall be in black letters, in not less than elite type and upon white paper of sufficient weight or thickness as to be clearly readable. The foregoing provisions do not apply to manuscript covers or backs customarily used on documents offered for recordation. The recording charge for any instrument not conforming to these requirements shall be treble the normal charge. In any clerk's office where the deeds or other instruments are photostated or microfilmed, no instrument on which a rider has been placed or attached in a manner obscuring, hiding, or covering any other part of the instrument may be offered or received for record. No instrument not otherwise readily subject to photostating or microfilming may be offered or received for record until treble the normal recording charge is paid to the clerk and unless an affidavit, black type on white paper, is attached and made a part of the document stating the kind of instrument, the date, the parties to the transaction, description of the property, and all other pertinent data. After any document has been recorded in one county, a certified copy of the recorded document may be recorded in any other county.

(2) A certified copy of any document from a state, commonwealth, territory, or possession of the United States, or the District of Columbia that would otherwise be recordable under Maryland law may be recorded in this State, if the document contains:

(i) An original certification made by the clerk or other governmental official having responsibility for the certification or authentication of recorded documents in the jurisdiction where the document is recorded; and

(ii) An indication of the recording reference and court or other public registry where the original document is recorded.

(f) (1) (i) In this paragraph, "under the attorney's supervision" includes review of an instrument by the certifying attorney.

(ii) A deed other than a mortgage, a deed of trust, an assignment of rents, an assignment of a lease for security purposes, or an assignment or a release of a mortgage or a deed of trust may not be recorded unless it bears:

1. The certification of an attorney admitted to the Bar of this State that the instrument has been prepared by the attorney or under the attorney's supervision; or

2. A certification by a party named in the instrument that the instrument was prepared by that party.

(iii) A mortgage, a deed of trust, an assignment of rents, an assignment of a lease for security purposes, or an assignment or a release of a mortgage or a deed of trust prepared by any attorney or one of the parties named in the instrument may be recorded without the certification required under subparagraph (ii) of this paragraph.

(2) Every deed recorded in Prince George's County shall contain a reference to the election district in which the property described in the deed is located.

(3) Every deed or other instrument recorded in Talbot County shall have written, typed, or printed on its back, to be readily visible when folded for filing in the appropriate drawer or file, the name of every party to the deed or other instrument and the nature or character of the instrument.

(4) No deed granting property lying within the boundaries of any sanitary district operated by the County Commissioners of Worcester County may be accepted by the Clerk of the Circuit Court for recording unless the deed is marked by the county to indicate that every assessment or charge currently due and owed to the county with respect to the property described in the deed has been paid.

(5) In Frederick County, if the property to be transferred is a subdivision, which is being dissected from a larger tract of land, then every public tax, assessment, and charge due on the larger tract shall be paid before the property is transferred on the assessment books or land records. Notwithstanding any other provision of this section, in Frederick County the certificate of the Treasurer and the appropriate municipal tax collector, if the property is within an incorporated town or city, showing that every tax has been paid shall be endorsed on the deed. The endorsement is sufficient authority for transfer on the assessment books or land records.

(6) Every deed granting a right-of-way or other easement to a public utility, public agency, or a department or agency of the State shall contain an accurate and definite description as well as a reference to the liber and folio where the servient land was granted and a recitation of the grantors, grantees, and the date of the reference deed.

(g) (1) This subsection does not apply to:

(i) An assignment of a mortgage or if presented for recordation, an assignment of a deed of trust;

(ii) A release of a deed of trust or mortgage;

(iii) A substitution of trustees on a deed of trust;

(iv) A power of attorney;

(v) A financing statement or an amendment, continuation, release, or termination of a financing statement recorded in land records; or

(vi) A restrictive covenant modification executed under § 3–112 of this subtitle.

(2) Except as provided in paragraph (1) of this subsection, each deed or other instrument affecting property and presented for recordation shall be:

(i) Accompanied by a complete intake sheet, on the form that the Administrative Office of the Courts provides; or

(ii) Endorsed as provided under paragraph (8) of this subsection.

(3) A complete intake sheet shall:

(i) Describe the property by at least one of the following property identifiers:

1. The property tax account identification number, if any, or in Montgomery County, any parcel identifier required under § 3–501 of this title, if different from the tax account number;

2. The street address, if any;

3. If the property is a lot within a subdivided tract, the lot and block designation, or in Baltimore City, the current land record block number;

4. If the property is part of a tract that has been subdivided informally and there is neither an assigned tax account identification number for the parcel nor a lot and block designation, then the street address, if any, or the amount of acreage; or

5. If the property consists of multiple parcels, the designation “various lots of ground” or the abbreviation “VAR. L.O.G.”;

(ii) Name each grantor, donor, mortgagor, and assignor and each grantee, donee, mortgagee, and assignee;

(iii) State the type of instrument;

(iv) State the amount of consideration payable, including the amount of any mortgage or deed of trust indebtedness assumed, or the principal amount of debt secured;

(v) State the amount of recording charges due, including the land records surcharge and any transfer and recordation taxes;

(vi) Identify, by citation or explanation, each claimed exemption from recording taxes;

(vii) For an instrument effecting a change in ownership, state a tax bill mailing address; and

(viii) Indicate the person to whom the instrument is to be returned.

(4) An intake sheet may request any other information that the Administrative Office of the Courts considers necessary in expediting transfers of property or recording and indexing of instruments.

(5) A clerk may not charge any fee for recording an intake sheet.

(6) A clerk may not refuse to record an instrument that does not effect a change of ownership on the assessment books solely because it is not accompanied by an intake sheet.

(7) A clerk may refuse to record a deed or instrument that effects a change of ownership on the assessment rolls if the instrument is not accompanied by a complete intake sheet or endorsed as transferred on the assessment books by the assessment office for the county where the property is located.

(8) (i) If a deed or other instrument that effects a change in ownership is submitted for transfer on the assessment books without an intake sheet, the person offering the deed or other instrument shall mail or deliver to the person having charge of the assessment books the information required on the intake sheet.

(ii) When property is transferred on the assessment books under this paragraph:

1. The transfer shall be to the grantee or assignee named in the deed or other instrument; and

2. The person recording the transfer shall evidence the fact of the transfer on the deed or other instrument.

(iii) An endorsement under this paragraph is sufficient to authorize the recording of the deed or other instrument by the clerk of the appropriate court.

(9) A clerk may not record an instrument that effects a real property lease dealing in natural gas and oil unless the instrument is accompanied by a complete intake sheet.

(10) (i) An intake sheet shall be recorded immediately after the instrument it accompanies.

(ii) The intake sheet is not part of the instrument and does not constitute constructive notice as to the contents of the instrument.

(iii) The lack of an intake sheet does not affect the validity of any conveyance, lien, or lien priority based on recordation of an instrument.

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